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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/603,531	06/25/2003	Helmut Jerg	2000P13026WOUS	4119
46726 7590 05/10/2007 BSH HOME APPLIANCES CORPORATION INTELLECTUAL PROPERTY DEPARTMENT 100 BOSCH BOULEVARD NEW BERN, NC 28562			EXAMINER DRODGE, JOSEPH W	
			ART UNIT 1723	PAPER NUMBER
			MAIL DATE 05/10/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/603,531

Applicant(s)

JERG, HELMUT

Examiner

Joseph W. Drodge

Art Unit

1723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 March 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8, 10-12, 14 and 16-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 8, 14 and 19 is/are rejected.
- 7) ☒ Claim(s) 10-12, 16-18 and 20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8 , 14 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alabaster patent 3,122,148.

Alabaster discloses filter body 9 whose top-most openings are covered or screened by an element 24 which changes state by flexing in response to heating of the fluid medium (column 4, lines 4-9 and 24-30 and figure 4). However, Alabaster does not disclose plural such elements 24, although disclosing the option of having plural screening baffles 12 covering openings of the filter body 9 to minimize overspilling or filter by-passing (column 4, lines 4-12 and figure 5). It would have been obvious to one of ordinary skill in the art to have modified the Alabster device by having plural rather than a single element 24, in order to more completely minimize over-spilling or filter by-passing. Also, duplication of parts has no patentable significance unless a new and unexpected result is produced. In re Harza, 274 F.2d 669, 124 USPQ 378 (CCPA 1960).

Regarding Claims 14 and 19, Alabaster discloses the filter utilized to filter water used in a dishwasher appliance (column 1, lines 10-22, etc.). Figure 5 illustrates the filter openings 9 to be proximate the flexing baffle elements 12 so as to together form openings that have a varying cross-sectional area depending upon the state or positions of elements 12 that vary according to degree of heat. For claim 19, the bending of the elements 12 or 24 is considered a flap-like movement, hence elements 12 or 24 form flap-like elements.

Allowable Subject Matter

Claims 10-12, 16-18 and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the

Regarding Claim 10-12 and 16-18, Alabaster does not teach that the screening or covering elements are punched out of the filter body and are in the shape of tongues positioned in the filter openings. None of the covering elements 12 or 24 of Alabaster are positioned in filter openings, instead are proximate the surfaces of the filter body.

Claim 20 distinguishes in view of recitation of the elements being in the form of clips which in one state thereof are positioned in the filter openings and in another state thereof are moved by a selected one of bending or pivoting out of the plane of the filter body.

Response to Arguments

Applicant's arguments filed on March 19, 2007 have been fully considered but they are not persuasive. It is argued that elements 12 and 24 of Alabaster are a baffle and not temperature-sensitive elements of a filter. However, the elements are proximate the elements of the filter openings themselves, hence cover the filter elements and thus meet the limitations of the rejected claims.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph Drodge at telephone number 571-272-1140. The examiner can normally be reached on Monday-Friday from

Art Unit: 1723


8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steve Griffin, can be reached at 571-272-1189. The fax phone number for the examining group where this application is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either private PAIR or Public PAIR, and through Private PAIR only for unpublished applications. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have any questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JWD

May 2, 2007


JOSEPH DRODGE
PRIMARY EXAMINER